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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,613	02/24/2004	Harvey M. Wescott III	33413	2947

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PEARSON & PEARSON, LLP
10 GEORGE STREET
LOWELL, MA 01852

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/785,613	Applicant(s) WESCOTT, HARVEY M.	
	Examiner Jennifer E. Novosad	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This non-final Office action is in response to the amendment filed June 5, 2005 by which claim 2 was amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 2,738,872 (De Botton '872).

De Botton '872 discloses a testing platform comprising a top plate (17) spaced above a middle plate (18) spaced above a bottom plate (11); each of the top plate (17) and the middle plate (18) comprises a matrix of holes (unnumbered - see 2nd and 3rd rows from the far left of Figure 1) that are aligned with another (see left side of Figure 2); a column of slots (unnumbered - see narrow opening on the far left side of Figure 1) in the top plate (17) positioned adjacent to the matrix of holes therein; and *with respect to claim 3*, the column of slots in the top plate (17) comprise through slots (i.e., the tubes 13 in Figure 2 are shown as extending therethrough).

The claims differ from De Botton '872 in requiring the middle plate to have a column of slots directly under the column of slots in the top plate (claim 1).

Although De Botton '872 does not explicitly show or discuss such slots in the middle plate, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made (i.e., the examiner takes official notice) that the middle plate (18) of De Boton '872 would comprise slots positioned under the slots of the top plate (17), since the slides (14) are shown in Figure 2 as extending from the top plate (17) to the bottom plate (11), thereby increasing support and stability of the slides placed therein when the platform is moved.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Boton '872, alone.

De Boton '872 discloses the platform as advanced above whereby the platform comprises a plurality of rows, (i.e., 1-10 on left side of Figure 1) and each row comprises a first type hole (third aperture from the left of Figure 1) with a first diameter, a second type hole (middle aperture on left of Figure 1) having a second diameter, and one slot. It is noted that the claim does not require the first and second diameters to be different.

The claim differs from De Boton '872 in requiring a plurality of second type holes in each row.

It would have been obvious to one of ordinary skill in the art at the time the invention was made (i.e., the examiner takes official notice) to have provided each row with a plurality of second type holes, (for example, as shown in cited U.S. Patent Nos. 4,125,122, 4,284,603, and 4,407,958), for increased storage capabilities and capacity.

Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. U.S. Patent No. 4,124,122 (Emmitt '122).

Emmitt '122 discloses a platform comprising a top plate (16) disposed above a middle plate (14) which is disposed above a bottom plate (12); each of the middle and top plates (14, 16) comprises a matrix of holes (28) aligned with one another (see Figure 2); a plurality of rows (see

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Figure 1) is provided in the platform with each row (e.g., the row at the top of Figure 1) comprising a first type hole, a second type hole, and a portion of a slot; a though slot (34) is positioned in the top plate (16) that is alignment with a slot (32) in the middle plate (14).

The claims differ from Emmitt '122 in requiring: (a) a column of slots in each of the top and middle plates (claim 1); and (b) the slots in the middle tray to be non-through slots (claim 4).

With respect to (a), although Emmitt '122 discloses only one slot in each of the top and middle plates, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have provided a plurality of slots in each plate, for increased storage capacity and capabilities (see MPEP 2144.04(VI)(B)).

With respect to (b), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the middle plate of Emmitt '122 such that the slots therein would be non-through slots, thereby increasing structural support of articles placed therein.

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,778,232 (McMorrow, Jr. '232) in view of De Botton '872.

McMorrow, Jr. '232 discloses a platform comprising a top plate (27) disposed above a middle plate (25) which is disposed above a bottom plate (23); each of the middle and top plates (27, 25) comprises a matrix of holes (7 and 522 - half of the rows from the left to middle of Figure 1) aligned with one another (see Figure 2); *with respect to claim 2*, a plurality of rows (see Figure 1 - one row extends from left to right in Figure 1) is provided in the platform with each row (e.g., the row at the top of Figure 1) comprising a first type hole, a second type hole, and a third type hole; *with respect to claim 2*, it is noted that the claim does not require the first

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and second diameters to be different; *with respect to claim 5*, the platform comprises spacers (29) for securing the top plate (27), the middle plate (25) and the bottom plate (23) together such that the spacers are inserted between the top plate (27) and the middle plate (25) and the middle plate and the bottom plate (23); and *with respect to claim 6*, the platform comprises standoffs (29 - between 21 and 23 in Figure 1).

The claims differ from McMorrow, Jr. '232 in requiring: (a) a column of slots in the top plate, positioned adjacent to the matrix of holes in the top plate and a column of slots in the middle plate aligned with the slots in the top plate (claim 1); (b) each row to have a first hole, a plurality of second holes and a slot (claim 2); (c) the slots in the top plate are through slots (claim 3); and (d) screws screwed into the spacers (claim 5) and standoffs (claim 6).

With respect to (a), (b), and (c), De Botton '872 teaches the platform as advanced above.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the platform of McMorrow, Jr. '232 with one of the through slots in each row, as taught by De Botton '872, for increased organizational capacity of the platform.

With respect to (d), although McMorrow, Jr. '232 does not disclose the use of screws, it would have been obvious to one of ordinary skill in the art at the time the invention was made (as applicant's admitted prior art - see Response to Arguments below) to have utilized screws in the platform of McMorrow, Jr. '232 for increased rigidity and stability of the platform.

Terminal Disclaimer

The terminal disclaimer filed on June 5, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Design Patent No. D507,658, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

Applicant's arguments, regarding the "slots" of claim 1 and the definition thereof, see pages 4-7, filed June 5, 2006, with respect to the rejections of claims 1-3 under Section 102(b), i.e., with each of references U.S. Patent Nos. 3,379,315 (Broadwin) and 3,778,232 (McMorrow, Jr.), have been fully considered and are persuasive. *Therefore*, the rejection has been withdrawn. It is noted that although McMorrow, Jr. has been utilized again, it has utilized under Section 103.

However, upon further consideration, a new grounds of rejection is made in view of the references advanced above.

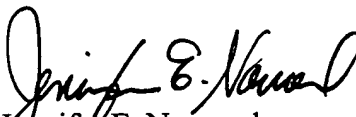
With respect to claims 5 and 6, it is noted that the examiner took official notice, in the previous Office action mailed March 7, 2006, that it would have been obvious to have utilized screws in the platform of McMorrow, Jr. Since applicant did not argue this (see pages 9 and 10 of the arguments in the reply filed June 5, 2006), this feature is taken to be admitted prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

June 30, 2006